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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 29th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 19 February 1990, at 10 a.m.

Chairman: Mrs. QUISUMBING (Philippines)
later: Mr. DITCHEV (Bulgaria)

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The meeting was called to order at 10.25 a.m.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1990/L.5, L.7, L.8 and L.14)

1. The CHAIRMAN invited the members of the Commission to consider draft resolutions E/CN.4/1990/L.5, L.7, L.8 and L.14. The suggested procedure was that the Commission would first hear any general comments to be made on the draft resolutions before it; it would then vote on the individual draft resolutions, or parts thereof if necessary, after hearing any explanations of vote before the vote on individual texts. Once the voting on all texts had been completed, it would hear explanations of vote after the vote.

2. She invited the members of the Commission to take a decision on draft resolution E/CN.4/1990/L.5, on which the United States delegation had requested a vote.

3. At the request of the representative of Canada, a separate vote was taken by roll-call on operative paragraph 1 of draft resolution E/CN.4/1990/L.5.

4. Botswana, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Botswana, Brazil, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, Hungary, India, Iraq, Madagascar, Mexico, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Sao Tome and Principe, Senegal, Somalia, Sri Lanka, Swaziland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: Belgium, Canada, Germany, Federal Republic of, Italy, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Bulgaria, France, Japan, Portugal, Spain.

5. Operative paragraph 1 of draft resolution E/CN.4/1990/L.5 was adopted by 30 votes to 7, with 5 abstentions.

6. The CHAIRMAN invited the members of the Commission to vote, by a show of hands, on draft resolution E/CN.4/1990/L.5 as a whole.

7. Draft resolution E/CN.4/1990/L.5 was adopted by 30 votes to 1, with 10 abstentions.

8. The CHAIRMAN invited the members of the Commission to consider draft resolution E/CN.4/1990/L.7. She drew attention to operative paragraph 11, which should be corrected, the words "governmental organizations" being replaced by "Governments, intergovernmental and non-governmental organizations".

9. Mr. NYAMEKYE (Deputy Director, Centre for Human Rights) read out, pursuant to rule 28 of the rules of procedure, the financial implications of

the Commission's adoption of draft resolution E/CN.4/1990/L.7. Costs would arise from the decision, in operative paragraph 8, to extend the Special Rapporteur's mandate for two years.

10. It was envisaged that, in order to carry out his mandate, the Special Rapporteur would visit Geneva in May/June 1990 and May/June 1991 for a period of five working days on each occasion for consultations at the Centre for Human Rights and to plan his work. He would also visit Geneva for a period of five working days in August/September 1990 and again in August/September 1991 in order to prepare his interim reports to the General Assembly, and make other visits to Geneva at the end of 1990 and end of 1991 to prepare his final reports to the Commission.

11. In October 1990 and October 1991, he would visit New York to present interim reports to the Assembly, and in February/March 1991 and February/March 1992 he would visit Geneva for a period of five working days on each occasion to report to the Commission. In response to Government invitations, he would undertake a maximum of six field missions, accompanied by at least three staff members, during the period 1990 to 1992.

12. The relevant costs to be financed under section 23 (Human Rights) were estimated at $95,900 for 1990, $101,700 for 1991 and $26,800 for 1992. The cost of salary, travel and subsistence of interpreters, should they be required during the field missions, was estimated at $4,500 for each mission, to be financed under section 29 B (Conference Services Division, Geneva). Full details would appear in a document to be issued shortly.

13. The draft resolution was considered to be within the scope of perennial activities; the costs would therefore be met from the existing provision for the Economic and Social Council mandate under section 23, thus making unnecessary any additional appropriation or recourse to the Contingency Fund.

14. The CHAIRMAN invited the Commission to vote by a show of hands, at the request of the representative of Canada, on draft resolution E/CN.4/1990/L.7.

15. Draft resolution E/CN.4/1990/L.7 was adopted by 31 votes to 10, with 1 abstention.

16. The CHAIRMAN invited the members of the Commission to take a decision on draft resolution E/CN.4/1990/L.8.

17. At the request of the representative of the Federal Republic of Germany, a separate vote was taken by roll-call on operative paragraph 9 of draft resolution E/CN.4/1990/L.8.

18. Botswana, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Botswana, Brazil, Bulgaria, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, Ghana, India, Iraq, Madagascar, Mexico, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Sao Tome and Principe, Senegal, Somalia, Sri Lanka, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: Belgium, Canada, France, Germany, Federal Republic of, Italy, Japan, Portugal, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Hungary, Swaziland.

19. Operative paragraph 9 of draft resolution E/CN.4/1990/L.8 was adopted by 31 votes to 10, with 2 abstentions.

20. The CHAIRMAN invited the Commission to vote on draft resolution E/CN.4/1990/L.8 as a whole.

21. At the request of the representative of the United States of America, the vote was taken by roll-call.

22. China, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Botswana, Brazil, Bulgaria, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, Ghana, Hungary, India, Iraq, Madagascar, Mexico, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Sao Tome and Principe, Senegal, Somalia, Sri Lanka, Swaziland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Belgium, Canada, France, Germany, Federal Republic of, Italy, Japan, Portugal, Spain, Sweden.

23. Draft resolution E/CN.4/1990/L.8 was adopted by 32 votes to 2, with 9 abstentions.

24. The CHAIRMAN invited the Commission to consider draft resolution E/CN.4/1990/L.14.

25. Mrs. GONZALEZ MARTINEZ (Mexico), speaking in explanation of vote before the vote, said that her delegation had requested a separate vote on the fourteenth preambular paragraph of draft resolution E/CN.4/1990/L.14 because it did not think that the Commission could endorse agreements, conclusions or any other sort of understanding arrived at by the Security Council's permanent members acting on their own. The Charter made no provision for meetings attended by the permanent members of the Security Council to the exclusion of the other members of the Security Council.

26. While her delegation welcomed the interest shown by the five permanent members in the resolution of the Cambodian conflict, that issue, like all others, should be discussed in a properly constituted forum. Her delegation would thus abstain during a separate vote on tthe relevant preambular paragraph.

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27. At the request of the representative of Mexico, a vote was taken by roll-call on the fourteenth preambular paragraph of draft resolution E/CN.4/1990/L.14.

28. Swaziland, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Belgium, Botswana, Canada, China, Colombia, Cyprus, France, Gambia, Germany, Federal Republic of, Ghana, Italy, Japan, Morocco, Pakistan, Panama, Philippines, Portugal, Senegal, Somalia, Spain, Swaziland, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yugoslavia.

Against: Cuba.

Abstaining: Brazil, Bulgaria, Ethiopia, Hungary, India, Iraq, Madagascar, Mexico, Nigeria, Peru, Sri Lanka.

29. The fourteenth preambular paragraph of draft resolution E/CN.4/1990/L.14 was adopted by 28 votes to 1, with 11 abstentions.

30. Mr. MALGINOV (Union of Soviet Socialist Republics), speaking in explanation of vote, said that decisions taken by the Commission should reflect the reality of the situation and promote the process of achieving political settlements. The past few months had seen a radical change in the Cambodian situation: foreign troops had been withdrawn, a basis of dialogue between the parties to the conflict had been created, constructive proposals had been put forward, and the Security Council's permanent members had agreed on a basis for a political settlement, the chief elements of which were a dialogue involving all parties, the cessation of military assistance from outside and an enhanced United Nations role in the holding of free, democratic elections.

31. Some of the new factors were reflected, to some extent, in draft resolution E/CN.4/1990/L.14, e.g. the reference to the efforts by the Security Council's permanent members. Nevertheless, the text as a whole hardly differed from the one-sided resolutions the Commission had adopted a few years previously in an entirely different climate. His delegation regretted that the sponsors of draft resolution E/CN.4/1990/L.14 had failed to seize the opportunity presented by the current situation to achieve a consensus. It had decided, therefore, to vote against the text as a whole and not to participate in any vote on separate parts of it.

32. The CHAIRMAN invited the Commission to vote on draft resolution E/CN.4/1990/L.14 as a whole.

33. At the request of the representatives of Mexico and the Union of Soviet Socialist Republics, the vote was taken by roll-call.

34. Italy, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Botswana, Brazil, China, Colombia, Cyprus, France, Gambia, Germany, Federal Republic of, Ghana, Italy, Japan, Mexico, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Portugal, Sao Tome and Principe, Senegal, Somalia, Spain, Sri Lanka, Swaziland, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yugoslavia.

Against: Cuba, Ethiopia, India, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Belgium, Canada, Hungary, Iraq, Madagascar, Sweden.

35. Draft resolution E/CN.4/1990/L.14 as a whole was adopted by 31 votes to 5, with 6 abstentions.

36. Mr. MEZZALAMA (Italy), speaking in explanation of vote on behalf of the States members of the European Community, said that, in their opinion, draft resolution E/CN.4/1990/L.14 did not address all of the issues which must be taken into account in the search for a political solution to the problem of Cambodia. The position of the Twelve in that regard was well known. They sought a comprehensive, political settlement which must ensure the independence, sovereignty, territorial integrity and neutrality of Cambodia, as well as the fundamental right of Cambodians to choose their own Government in free, fair and internationally supervised elections.

37. They totally rejected once again the genocidal policies of the Khmers Rouges, who were responsible for the extermination of hundreds of thousands of Cambodians. Their non-return to power remained an essential element of the policy of the Twelve concerning Cambodia.

38. As the draft resolution did not fully reflect those concerns or take account of recent developments since the latest session of the General Assembly, the Twelve had not been able to act as sponsors.

39. Ms. ANDREYCHUCK (Canada) said, with regard to draft resolution E/CN.4/1990/L.7 and in particular its operative paragraph 6, that her delegation noted with satisfaction the adoption of the International Covenant against the Recruitment, Use, Financing and Training of Mercenaries after a decade of negotiations. However, it regretted that the new approach represented by the Convention had not penetrated into the draft resolution.

40. With regard to draft resolution E/CN.4/1990/L.8, it was most unfortunate that the Commission, which tried to highlight the positive as well as negative developments in human rights, had not been able to adopt a resolution on Namibia's exemplary exercise in self-determination in November 1989. Her delegation also believed that recent events should have been incorporated into the current resolution.

41. Her delegation was dissatisfied with draft resolution E/CN.4/1990/L.14 for a number of reasons. It had noted significant improving trends in the observance of human rights in Cambodia in the past few years. However, it was

also concerned at the evidence of consistent gross and flagrant human rights violations in camps controlled by certain resistance groups. Those occurrences were not recognized in the draft resolution and, consequently, the language in operative paragraph 1 was unbalanced.

42. Referring to the tenth preambular paragraph, she pointed out that the Vietnamese and other ethnic populations had co-existed in Cambodia for decades without constituting a threat to Cambodian society and culture. In her delegation's opinion, such language could be used by a future Cambodian Government to justify ethnic purges. For all those reasons, her delegation had abstained in the vote on draft resolution E/CN.4/1990/L.14.

43. Mr. NISHIBAYASHI (Japan) said that his delegation had abstained from the vote on draft resolution E/CN.4/1990/L.8 for the following reason. It recognized with appreciation the new paragraph added to the previous year's resolution on the same subject, in view of the recent developments in South Africa. However, the text still contained paragraphs which his delegation had difficulty in accepting. His delegation's vote should not be construed as indicating any lack of understanding of the purpose and spirit of the draft.

44. Mr. GANDHI (India) said that his delegation would have preferred that agreement had been reached to adopt draft resolution E/CN.4/1990/L.14 by consensus. Unfortunately, despite intensive informal consultations, that had not proved possible. While the draft contained some positive references, it also retained certain elements which might not help to encourage the ongoing process leading to a comprehensive settlement of the situation in Cambodia. Consequently, his delegation had been obliged to vote against the draft resolution.

45. Mr. SELEPENG (Botswana) said that his delegation had voted in favour of draft resolution E/CN.4/1990/L.8 because it was strongly opposed to apartheid, the root cause of all the problems it faced in southern Africa. It wished, however, to enter a reservation with regard to paragraph 9 which called for the imposition of mandatory and comprehensive sanctions. His country lacked the capacity to implement the action called for in that regard, but it would not place any obstacle in the way of those in a position to implement such measures.

46. Mr. JOHNSON (United States of America) said that his delegation had voted against draft resolution E/CN.4/1990/L.7 for several reasons. First, it considered it inappropriate for the Commission to deal with the subject of mercenaries, which was not a human rights question but rather a matter relating to international peace and security that should be discussed in other United Nations bodies such as the General Assembly.

47. Secondly, as the text itself noted, the General Assembly had recently adopted by consensus an International Convention against the Recruitment, Use, Financing and Training of Mercenaries, after many years of work under the auspices of the Sixth Committee. The focus should be on that Convention, and the mandate of the Special Rapporteur should be terminated. In his delegation's view, in fact, the mandate should never have been created, and the United Nations recources used to support the Special Rapporteur's activities would be far better spent on other projects, especially those

devoted to genuine human rights issues. The financial implications of $200,000 were unconscionable, when there were so many pressing human rights problems for which no United Nations resources could be made available.

48. Lastly, his delegation had voted against the draft resolution because the matter had become unacceptably politicized. The Special Rapporteur had taken it upon himself to devise and utilize a definition of "mercenaries" that had no basis in international law or practice. Neither the most widely-accepted definition of "mercenaries" nor the similar approaches taken in the International Convention gave any support to the allegations concerning mercenary activities in some of the countries listed in the report of the Special Rapporteur and mentioned in operative paragraph 1 of the draft resolution.

49. Ms. LEADER (United States of America) said that her delegation had voted against draft resolution E/CN.4/1990/L.8, although it fully supported the right of all South Africans to participate in the government and administration of their territory on the basis of universal suffrage and secret ballot. Periodic free elections were the basis for genuine self-determination and, until the system of apartheid was dismantled and majority rule prevailed, there could be no self-determination for the people of South Africa.

50. The draft resolution could have enjoyed the fullest support of the United States delegation if it had focused on that fundamental basis of self-determination. Instead, it included many extraneous elements and used language which her Government had consistently opposed in the United Nations and elsewhere. Moreover, it failed to reflect the international consensus reached at the special session of the General Assembly two months previously on the need for negotiations to put an end to apartheid. It also failed to take account of the recent dramatic developments in southern Africa. Her delegation had thus had no choice but to vote against it.

51. Mr. DAHL (Sweden) said that his delegation had abstained from the vote on draft resolution E/CN.4/1990/L.5, although it supported the right of the Palestinian people to self-determination and to establish a State of their own.

52. His delegation had welcomed the declaration made by the Palestinian National Council in November 1988 and, in particular, had taken note of the recognition by the Palestine Liberation Organization of Israel's right to exist in peace within safe and recognized borders. It also welcomed that organization's acceptance of the relevant Security Council resolutions.

53. Regrettably, however, those important elements were not adequately reflected in the draft resolution, which had therefore become unbalanced, and the wording of some of its paragraphs were such that his delegation had had to abstain, despite its support for the general thrust of the draft resolution.

54. With regard to draft resolution E/CN.4/1990/L.8, his delegation had abstained not only because of legal and technical difficulties connected with certain paragraphs but also because the problems affecting human rights in southern Africa did not concern self-determination alone. In its opinion, the draft resolution should have focused on the gross violations of human rights caused by the system of apartheid.

55. His delegation had also abstained from the vote on draft resolution E/CN.4/1990/L.14, since it could not support a text which might be interpreted as opening the way for the return to power of those responsible for the genocidal atrocities committed in Cambodia. In that connection, it supported the recent endeavours to find an appropriate solution and welcomed, in particular, the suggestions made by the Government of Australia.

56. Mr. GROLIG (Federal Republic of Germany) said that, although his delegation had abstained from the vote on draft resolution E/CN.4/1990/L.8 as a whole, it had had to cast a negative vote with regard to operative paragraph 9. His Government had never concealed the fact that, for reasons of principle, it had always adopted a sceptical posture towards the use of economic sanctions for political purposes. It was not therefore in a position to accede to the far-reaching request to impose mandatory and comprehensive sanctions. It did not wish to resort to means which would affect the vital foundations of the whole population in southern Africa and jeopardize the fate of the entire region.

57. Miss BOZHKOVA (Bulgaria), referring to draft resolution E/CN.4/1990/L.14, said that her delegation had hoped that, in view of the positive developments occurring in Cambodia as a result of the withdrawal of foreign forces from that country and the chances of reaching a political solution to the problem of Cambodia as a result of the efforts made by the parties concerned and the five permanent members of the Security Council, the Commission would have been able to reflect that situation and contribute to the solution of the problem by adopting a consensus resolution.

58. She regretted that the draft resolution as a whole did not reflect the new situation concerning Cambodia and that, therefore, her delegation had not been able to support it. It was unbalanced and failed to take into account the positions of all the parties concerned; it did not acknowledge the welcome withdrawal of foreign forces from Cambodia; it did not contain specific provisions to exclude any possibility of a return of the genocidal régime; and some of its provisions contained strong and unacceptable language. Moreover, some of its formulations could be construed as one-sided and as prejudging the future leadership of the country. For those reasons, and in order to encourage a speedy political solution of the problem, her delegation had not participated in the vote on the draft resolution in question.

59. Mr. CABRAL (Portugal), referring to draft resolution E/CN.4/1990/L.8, said that, since operative paragraph 9 contained a demand for mandatory and comprehensive sanctions against South Africa, his delegation had been obliged to vote against it. However, if the part of the paragraph condemning acts of aggression against neighbouring States had been the object of a separate vote, his delegation would have voted in its favour.

60. Mr. TRAN HOAN (Observer for Viet Nam) said that it should be stressed once again that the true nature of the question of Cambodia as far as the Commission was concerned should be the problem of preventing and punishing the crime of genocide committed by the Pol Pot régime, universally condemned by world public opinion for having exterminated 3 million Cambodians.

61. The situation in Kampuchea had changed radically. The volunteer Vietnamese troops, having accomplished their noble international task of helping the Cambodian people to defend their country and prevent the return of

the genocidal régime to Kampuchea, had left the country entirely. The final withdrawal of those troops had been noted by observers from 20 countries and 6 international organizations as well as by many foreign journalists.

62. The current problem was to prevent the restoration of the genocidal régime by the Khmers Rouges, who were stepping up the civil war in order to achieve that objective. It was noteworthy that the leaders of various countries, world public opinion and a great number of delegates had objected strongly to the possibility of the genocidal régime of Pol Pot returning to power.

63. The situation was ripe for a comprehensive political solution, on the basis of respect for the right to self-determination of the Cambodian people, and the Government of the State of Cambodia was prepared to consider the Australian proposal concerning the role to be played by the United Nations. That had created an opportunity to overcome the remaining difficulties.

64. It was to be regretted that the ASEAN countries had put forward a draft resolution on the "situation in Cambodia" which did not reflect the facts and, in particular, deliberately ignored the primary problem to be resolved, namely, preventing the return of the genocidal régime, despite the fact that it was one of the two key problems of a political settlement of the situation in Cambodia mentioned in the conclusions of the Jakarta Informal Meetings, conclusions which had been accepted by the ASEAN countries. The International Conference on Cambodia held in Paris in July and August 1989 had also taken note of those two key problems.

65. The draft resolution repeated outdated provisions from former resolutions and included slanderous allegations such as those concerning "demographic changes imposed in Cambodia". In short, it in no way reflected the true situation in Kampuchea and would not assist in reaching an equitable and reasonable solution to the Cambodian problem.

66. Mr. NGO Hac Team (Observer for Cambodia) said his delegation was very grateful to the Commission for adopting draft resolution E/CN.4/1990/L.14 on the situation in Cambodia. He also thanked the countries belonging to the Association of South-East Asian Nations (ASEAN) for the exemplary solidarity they had shown with the Cambodian people during the 11-year period which had been critical to its survival.

67. The Cambodians were also extremely grateful for the international community's tireless efforts to find a comprehensive, just and lasting solution to the so-called Cambodia problem. If it was still impossible to re-establish peace and put an end to the inexpressible suffering of the Cambodian people, that was because of the continuation of the Vietnamese occupation.

68. If the Cambodian people was still unable to exercise its right to self-determination, that was because of the Hanoi régime's obstinate refusal to agree to the two key points of H.R.H. Prince Sihanouk's five-point peace plan, namely, the withdrawal of all Vietnamese forces from Cambodia under the supervision and control of the United Nations, and the national reconciliation of all Cambodians through the formation of a quadripartite provisional Government with all parties on an equal footing, under the leadership of Prince Sihanouk.

69. That Government would be responsible for holding free, fair and democratic elections in Cambodia under international supervision. If Hanoi truly had nothing to hide, there was no reason why it should reject those two logical and reasonable points. The Cambodian people demanded nothing which belonged to Viet Nam. It demanded only its right to self-determination.

70. The historic return of Cambodia to its traditional name, flag and national anthem reflected the strengthening of the unity and legitimacy of its national resistance under Prince Sihanouk's leadership.

71. Given the habitual duplicity, evasiveness and obstinacy of the occupiers, and their constant brandishing of the spectre of the Khmers Rouges despite all the realistic and reasonable measures advocated by Prince Sihanouk, his country had no alternative but to appeal to the peace-loving and justice-loving international community to redouble its efforts with a view to reaching a comprehensive, just and lasting settlement.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

(agenda item 10) (continued) (E/CN.4/1990/12, 13, 15, 16, 17 and Add.1; E/CN.4/Sub.2/1989/28 and 29/Rev.1; E/CN.4/Sub.2/1988/28 and A/44/708)

72. Mr. SKWEYIYA (African National Congress) expressed his gratitude to the Commission and the international community, whose efforts had led to the unbanning of his organization and the release of Nelson Mandela. Mr. Mandela's release and the measures recently announced by F.W. de Klerk would help to create an atmosphere for freer political activity in South Africa. He hailed the struggling masses of South Africa, whose sacrifices and daring had made those developments possible.

73. However, the Pretoria régime had fallen far too short in meeting the fundamental requirements for free political activity and the abolition of torture. In particular, the maintenance of the essential aspects of the state of emergency and all repressive laws, the exclusion from amnesty of certain categories of political prisoners, including those on death row, the retention of the practice of detention without trial and the continuation of some media restrictions called into question de Klerk's intentions of moving towards a negotiated settlement in South Africa.

74. So long as laws like the Internal Security Act and Terrorism Act remained on the books of the apartheid State, the practice of torture would continue. The Internal Security Act provided that any detainee could be held indefinitely so long as the security police felt that he or she had not replied satisfactorily to all the questions asked during interrogation. Accordingly, the racist courts would continue to judge detainees on the basis of evidence extracted primarily through torture under the closed detention system.

75. The maintenance of the state of emergency meant that the use of torture as a method of interrogation would continue. Detainees would continue to be placed in solitary confinement and prevented from seeing lawyers of their choice. Violence and torture preceding deaths in detention would continue to be part of the apartheid system. Moreover, the activities of the death squads would persist, despite the recent announcement of the appointment of a judicial inquiry into those organizations.

76. The de Klerk régime still had a long way to go before it could claim that it had ended its repression of the national liberation forces. The troops had not been withdrawn from the black townships, where they continued to wreak havoc and intimidate the people. The Bantustans and the apartheid local government structures remained intact, as did the Group Areas Act and Population Registration Act, and there was no indication of any movement on those issues. Furthermore, the possibility of the return of exiles had not even been mentioned. Oliver Tambo, the President of his organization, remained a banned and listed person who could not be quoted in South African newspapers.

77. The struggle against apartheid must be further reinforced by putting pressure on the régime to release other political prisoners, especially those on death row, and to lift the state of emergency. The international community must continue to isolate the apartheid régime, especially by imposing comprehensive and mandatory sanctions.

78. He reaffirmed his organization's adherence to the Harare Declaration adopted by the Organization of African Unity and embodied in the United Nations Declaration of December 1989, which clearly called for discussions between the liberation movement and the South African Government, if and when the climate for negotiations had been created. It was obvious that the steps taken by the régime left much to be desired and fell far short of creating a climate for negotiations. He appealed to all democratic States, especially those in the West, which had influence on the apartheid State to nudge it to move forward. In the meantime, his organization and his people would continue to need the support of the Commission and democratic mankind in their struggle against the inhuman system of torture in South Africa.

79. Mr. Ditchev (Bulgaria) took the Chair.

80. Mr. VIGNY (Observer for Switzerland), having emphasized the important role of the Special Rapporteur on questions relevant to torture and urged the Commission to renew his mandate for more than two years, if possible, said that the functions of the Special Rapporteur and the Committee against Torture were different but complementary, and it was important to establish close co-operation between them. The information contained in the Special Rapporteur's report (E/CN.4/1990/17 and Add.1) should be taken into account by the Committee; likewise, the reports submitted to the Committee by States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment should be transmitted to the Special Rapporteur.

81. It would also be useful if the Special Rapporteur, when visiting a country, were to encourage its authorities to ratify the Convention. His delegation took the view that the Special Rapporteur's mandate extended to all States, whether or not they were parties to the Convention, and that the

Special Rapporteur was competent to make not only general recommendations with a view to eliminating torture, but also recommendations bearing directly on a particular country, if he had been able to visit it. Moreover, if the State in question had not seen fit to invite the Special Rapporteur to visit its country, and if the situation with regard to the protection of persons deprived of their liberty so required, the Special Rapporteur should be able to make specific recommendations to that State also.

82. It was also important that Governments which invited the Special Rapporteur to visit their countries should give him access to certain places, such as prisons, or allow him to meet the representatives of local non-governmental organizations or any other persons whom he wished to meet. Adequate follow-up of the visit by the Governments concerned, including a second visit, if necessary, was also highly desirable.

83. It was unfortunate that far too many of the Governments contacted by the Special Rapporteur had not replied and that, of those which has replied, many had done no more than state that the allegation of torture had proved to be baseless. It was imperative that Governments should give the facts on which such conclusions rested; otherwise, the reply was merely a plea of not guilty which deceived no one.

84. He fully supported the conclusions and recommendations of the Special Rapporteur, particularly his detailed commentary on the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. While those principles were not binding under international law, they were none the less very important in that their observance by Governments would give greater protection against the torture of persons deprived of their freedom.

85. It would be desirable for a larger number of countries to become parties to the Convention against Torture, particularly those States, numbering about 20, which had signed but not yet ratified the Convention. It was noteworthy that only a few Asian States had ratified the Convention, whereas many of the allegations of torture transmitted by the Special Rapporteur concerned States in that region.

86. He especially hoped that, in view of the recent positive developments in the human rights situations in the German Democratic Republic and Chile, those two States, which had entered reservations to the Convention, would be able to withdraw them. He also hoped that the States which had entered reservations to article 20 of the Convention would also withdraw them, thereby indicating that they agreed to co-operate closely with inquiries conducted by the Committee in cases of well-founded allegations of torture. Likewise, it would be a welcome development if other States joined the 23 which had already agreed to individual communications within the meaning of article 22 of the Convention.

87. He drew attention to the draft optional protocol to the Convention against Torture submitted by the delegation of Costa Rica in 1980, which provided for a preventive system of visits to be carried out at any time and to any place of detention by an independent international committee. His Government was in favour of that proposal and believed that its feasibility should be carefully examined in the light of the entry into force of the

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which contained a similar provision, and the experience of the Committee established under that Convention since its inception in 1989.

88. The report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1990/13) was a model of its kind. He shared the conclusions of the Working Group, and believed that the draft declaration on enforced or involuntary disappearances being discussed by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities might provide new directions for the Group to take. In view of the statistics on enforced or involuntary disappearances contained in the report, it was absolutely essential that the Commission should renew the Group's mandate, for more than two years if possible.

89. Mr. BODDENS-HOSANG (Observer for the Netherlands) said that the tenth report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1990/13) was clearly a milestone for the Commission in more ways than one. In the course of a decade, the Commission had successfully nurtured a mechanism which allowed private individuals around the world to seek help promptly and directly from the United Nations. Though considered revolutionary and unorthodox 10 years previously, the modus operandi of the Working Group had since been applied to other areas of human rights concern.

90. The report of the Working Group was at once saddening and intriguing, in that it drew attention to a number of features of enforced or involuntary disappearances which were also common to other types of human rights violations. One of those was impunity, which fuelled not only the practice of disappearances but other human rights abuses as well. A related feature was the adjudication of military personnel by military courts in cases of human rights violations. As attested by both the Working Group and the Special Rapporteur on torture, that practice contributed to impunity.

91. In many cases, rather than carrying out impartial investigations and convicting members of the public security forces of human rights abuses, such authorities appeared to act as a shield for those officials. As a result, confidence among the public at large in the administration of justice was undermined, and a tendency for private individuals to act as both judge and executioner had been seen to develop in various countries.

92. The Commission might wish to share the ample information it had received in that regard with other United Nations forums which were, perhaps, better equipped to deal with it, such as the Eighth United Nations Congress on the Prevention of Crime and the Treatment of offenders.

93. Particularly shocking was the harassment of witnesses and relatives. The number of reports of threats and outright violence directed against persons looking for disappeared persons and against witnesses capable of providing information on disappearances had increased. Anyone who turned to the United Nations for help in the field of human rights should not be prevented from doing so for fear of intimidation or reprisal. The Organization had an obligation to ensure that non-governmental organizations or private individuals who sought to co-operate with it did not themselves become victims of human rights violations.

94. His delegation was particularly concerned over developments in Peru. For the third year in succession, Peru was listed by the Working Group as having the highest number of cases of disappearances, no less than 400. His delegation fully understood the difficult circumstances facing the Government of Peru, as a result of the heavy toll in human lives exacted by the Shining Path, a ruthless movement closely connected with drug trafficking, but it was precisely in trying times that Governments must make every effort to live up to their obligations to protect human rights.

95. Events in Sri Lanka were also distinctly worrying. That country was obviously facing a severe problem with disappearances, and the human rights situation in certain parts thereof was most unsatisfactory. According to the Working Group's report, the number of cases of missing persons might soon be nearing 1,000 but, according to his own informants, the figure was much higher. Fortunately, the Government of Sri Lanka had co-operated closely with the Working Group and had invited it to visit the country, a visit that would, it was hoped, take place in the course of 1990.

96. His delegation commended the Special Rapporteur on his outstanding report (E/CN.4/1990/17 and Add.1), which reflected the alarming situation in the world with regard to torture. He did not, however, make any mention of psychological torture, nor of the fact that children had increasingly become its victims.

97. In India, cases had been reported of children and youths, from 6 to 18 years of age suspected of theft who had been taken to a police station and beaten and tortured. Such allegations required clarification from the delegation of India. Allegations of a number of cases of severe torture in Mauritania had also been received. The urgent messages sent by the Special Rapporteur in that connection should not go unanswered. The urgent appeals directed to the Government of China in June and November 1989 should also be answered in full.

98. In the cases of Guatemala and Honduras, the Special Rapporteur's visits revealed that the institutional mechanisms for preventing human rights violations presented considerable deficiencies. In Guatemala, however, institutional improvements would not produce a solution if a climate of terror persisted in which judges, witnesses and citizens were intimidated. His delegation urgently appealed to the Guatemalan authorities to implement the Special Rapporteur's recommendations. It was important for Honduras to follow up the Special Rapporteur's suggestions on improving the structural weaknesses of its judicial system. It was to be hoped that the Government of Zaire would also take the Special Rapporteur's recommendations to heart.

99. The Working Group on Disappearances must be able to receive feedback on the implementation of its recommendations. The Commission must insist on responses in one form or another, adopting a more assertive attitude, to be reflected in the pertinent resolutions. The same held good for other thematic procedures.

100. He urged all Governments to make contributions to the United Nations Voluntary Fund for Victims of Torture, which provided assistance to torture victims on a purely humanitarian basis.

101. His delegation welcomed the decision by the Government of Hungary to withdraw its reservations to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to recognize the competence of the Committee Against Torture. It was to be hoped that other States parties, such as Chile and the German Democratic Republic, would soon do likewise.

102. His delegation underscored the importance of the work of the Committee Against Torture and welcomed the exchange of views between the Committee and the Special Rapporteur. It would be interested in hearing the views of the Committee on practical aspects of preventive measures to eradicate torture.

103. Large arrears in the financial contributions of States parties threatened the future work of the Committee Against Torture, and his Government urged all States parties to fulfil their obligations as soon as possible.

104. Mrs. NUNEZ de ESCORCIA (Observer for Nicaragua) said that the main principle guiding the prison system in her country was that it should enable men and women who had committed crimes to become useful members of society. As a result of a rehabilitation programme, 3,396 offenders had been pardoned in 1989. Despite the ongoing war and the continued kidnappings committed by counter-revolutionaries, her Government had again demonstrated its intention to pursue peace and to comply with its commitments in the context of the Esquipulas Agreements by pardoning 1,894 former members of Samoza's National Guard and 457 counter-revolutionaries. On 7 February 1990, the last 39 former members of the National Guard had been pardoned, as had the last 1,151 counter-revolutionaries, irrespective of the gravity of their crimes. Thus, despite the terrorist war of aggression and destabilization activities carried out against it, Nicaragua had released all its political prisoners.

105. Although the conflict had interfered with a more rapid development of legal institutions, her Government had taken concrete measures to consolidate the rule of law. In that context, her delegation was grateful to the Under-Secretary-General and the Centre for Human Rights for their co-operation in connection with the holding in May 1989, under the auspices of the International Commission of Jurists, of a seminar on the independence of the judiciary, the creation of an independent judiciary having been a constant concern of her Government.

106. With regard to forced or involuntary disappearances, her delegation wished to inform the Commission of the thousands of persons kidnapped by counter-revolutionaries and held in camps in Honduras. The main purpose of the kidnappings was to intimidate the civilian population and to obstruct the elections. The testimony of many persons who had managed to escape indicated that the detainees were being systematically tortured. The victims were not soldiers, but largely women and children.

107. Statistics showed that 9,000 persons had been kidnapped, their whereabouts being unknown. The contras had kidnapped 1,606 persons in 1989 alone, and 158 in January 1990. Although the abduction of civilians had continued for years, constituting a flagrant violation of their human rights, the Working Group had not seen fit to pay attention to the situation, and her delegation therefore called upon it to consider the question of protecting the lives and physical integrity of those Nicaraguans.

108. The report of the Working Group (E/CN.4/1990/13) still contained discrepancies with regard to the number of unclarified disappearances dating from the war of liberation, such cases having occurred in areas not yet under her Government's control or during particularly violent periods of the war. The practice of enforced disappearances did not exist in Nicaragua, as could be seen by the absence of a single reported case since 1987.

109. Her Government intended to continue co-operating with the Working Group. It was to be hoped that peace would soon be restored, when clarification of the few cases still cited in the report would be facilitated.

110. Mr. DUNA (Observer for Turkey) said that the Special Rapporteur was mandated to receive, seek and analyse credible and reliable information on specific cases of torture. Torture was, however, an issue that could easily be manipulated or turned against Governments. Circles that sought a political benefit in exploiting human rights problems were aware of the importance attached by Governments to the question, and attempted to take advantage of that situation by sending all sorts of allegations to the Special Rapporteur, in most cases not even hesitating to forward false or inadequate information. They were indifferent to the humanitarian aspect involved, their main objective being to use the report of the Special Rapporteur as a means of tarnishing the reputation of a particular country.

111. His delegation was confident that the Special Rapporteur was aware of that risk and was seeking credible and reliable information. His report should not be just a compilation of allegations and Government replies. He must also subject the information received to a thorough screening process, the establishment of which was essential for enhancing his credibility and efficiency. It was essential to draw a fine line between humanitarian co-operation to suppress torture and attempts to misuse human rights issues for purposes of political confrontation.

112. It was not difficult to pursue alleged cases of torture in open societies, where information was easily available and the electorate judged the performance of the Government on the basis of its human rights record. Unfortunately, many societies still remained closed to any kind of scrutiny. The lack of adequate information or the difficulty in obtaining it should not deter the Special Rapporteur from looking into the human rights situation in closed and mainly authoritarian societies. Lack of information or a refusal to co-operate by the Government concerned could not justify the scant attention given to a number of very grave situations. The Special Rapporteur must avoid selectivity in carrying out his mandate.

113. Turkey was an open and democratic society, and his Government had never attempted to deny the occurrence of isolated cases of police violence. On the contrary, it had always adopted a sincere and frank attitude on the issue and maintained a constructive dialogue with all those truly committed to the promotion of human rights. While remaining vigilant with regard to the exploitation of human rights issues for political purposes, his Government was committed to the eradication of torture and continued to take measures to that effect.

114. It was a party to international and European conventions against torture, and its full acceptance of the monitoring mechanisms established on the basis of those conventions was a clear indication that it was sincerely engaged in

the fight against torture. By accepting the right to file individual petitions with the European Commission of Human Rights, it had taken an essential step towards improving legislation on protecting the individual against human rights abuses, a decision that had been consolidated by the recent recognition of the jurisdiction of the European Court of Human Rights.

115. Action taken at the international level had been coupled with a further strengthening of domestic safeguards against torture. New legislation has substantially shortened the initial detention period. The access of lawyers to detainees had been fully ensured. All detained persons went through a medical examination performed by independent physicians both before and after interrogation. The education of public officials, meticulous scrutiny of allegations and severe penalties were also strong safeguards against torture. Steady improvement in prison conditions continued through the enactment of new regulations.

The meeting rose at 1 p.m.

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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 30th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 19 February 1990, at 3 p.m.

Chairman: Mrs. QUISUMBING (Philippines)

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(a) Question of human rights in Cyprus

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The meeting was called to order at 3.25 p.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES (agenda item 10) (continued) (E/CN.4/1990/12, 13, 15, 16, 17 and Add.1; E/CN.4/Sub.2/1989/28 and 29/Rev.1; E/CN.4/Sub.2/1988/28 and A/44/708)

1. Mr. ABU EISSA (Arab Lawyers Union) drew the Commission's attention to the urgent human rights situation in the Sudan, which had been particularly tragic since the so-called Revolutionary Command Council for National Salvation had seized power by force on 30 June 1989, overthrowing the democratically elected Government which had adopted a legal Constitution recognizing all fundamental human rights and which had also, in 1986, ratified the two International Covenants on Human Rights as well as the African Charter on Human and People's Rights and had signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Revolutionary Command Council had promulgated two decrees whereby it had suspended the Constitution, abolished State institutions, proclaimed a state of emergency throughout the country, imposed a curfew, dissolved the Constituent Assembly and trade unions, banned all political parties and suppressed freedom of expression, assocation and the press.

2. Immediately after seizing power, the Revolutionary Command Council had arrested the leaders of the political parties and trade unions; it had dismissed over 500 army officers, more than 390 police officers and more than 1,500 other officials, including judges. Special military tribunals had been set up after the coup d'état to try all cases by a summary procedure which did not permit the presence of a defence counsel. Those tribunals had later been replaced by the "Revolution Security Courts" after the promulgation of the Revolution Security Law in 1989. The courts in question were composed of army officers, followed a summary procedure, applied emergency law and, as a general rule, did not allow defence counsel. They tried all criminal cases, particularly those related to sedition or suspected opposition to the military Government. Those courts had sentenced to death a number of Sudanese people charged with different crimes, particularly a doctor who had been a leading figure in the Sudan Doctors Union and who had been found guilty of participating in a week-long strike. Notwithstanding international pressure, the sentence had not yet been officially commuted. It had just been reported that the Director General of the International Labour Organisation had sent a telegram to the Head of the Sudanese Government urging clemency. His organization hoped that the Commission on Human Rights would support that appeal.

3. Arrests had become a routine practice and the current number of detainees was more than 1,500. Arrests carried out by the new Revolution Security Force, comprising civil and military supporters of the régime, usually took place during curfew hours. Several houses, which were not previously known to

have been security offices, were used for purposes of interrogation during which detainees suffered violent ill-treatment and were subjected to every form of brutality and cruelty.

4. Because of the summary and arbitrary executions and the unprecedented methods of torture practised in the Sudan as well as civil war and the serious violations of human rights committed in the country, his organization urged the Commission on Human Rights to take action to ease the suffering of the Sudanese people by appointing either a special rapporteur with a mandate to examine the situation of human rights in the Sudan or an expert to assist the Government, by means of direct contact, to take the necessary action to restore respect for human rights.

5. The Arab Lawyers Union hoped that the Commission would conclude its work by adopting a resolution which would promote respect in the Sudan for all United Nations instruments related to human rights.

6. Mr. BELLECOURT (International Indian Treaty Council) said he wished to draw the attention of the Commission to the fate of Leonard Peltier, a member of the Chippewa Dakota tribe and a prominent representative of the American Indian Movement which followed the spiritual and cultural way of life of its Indian ancestors. Although no further avenue of appeal was available to Leonard Peltier, who had languished for 14 years in a United States prison, many supporters of his cause, in both the United States and Canada, continued to pursue efforts to obtain his release in the hope of reversing his 1976 extradition from Canada which had been based on testimony that the Federal Bureau of Investigation (FBI) had since admitted to have been falsified. Not less than 51 members of the Canadian Parliament and 55 members of the United States Congress had signed petitions calling for a new trial for Leonard Peltier. The issue had been the subject of bitter debate in the Canadian Parliament where one Member had emphasized that the extradition had been based on fraud and was consequently illegal.

7. The illegal extradition of Leonard Peltier was similar to the kidnapping of other great Indian chiefs by the United States and to the recent abduction of the Head of State of Panama.

8. The International Indian Treaty Council would continue to raise the case of Leonard Peltier with the Commission on Human Rights, supported as it was by many organizations and leaders throughout the world, until the international community could rejoice at his liberation as it had welcomed the release of Nelson Mandela.

9. In connection with the comment by "Pik" Botha, the South African Minister, who had told Senator Edward Kennedy that the treatment meted out by the United States to the American Indians prevented any representative of that country from preaching morality to other States, he wished to stress that there could be no question of not condemning the racist régime of South Africa and that his organization would continue to call for the total dismantling of the apartheid régime. That having been said, however, it should be realized that apartheid continued to exist, in the United States also, as far as the Indians were concerned.

10. The Government of the United States, which held itself up to the world as the champion of human rights, had always waged and was still waging a

merciless war against the colonized nations of Indian peoples and, through its security and secret services, endeavoured to break any movement which challenged its internal or external policy. It has accordingly transformed a relatively fair and impartial judicial system into a tool of political repression which was used against the defenders of the sovereignty of the Indian nations in particular. The activities of the American secret services were so well known that, in 1981, Amnesty International, citing the Peltier case, had proposed that a commission of inquiry be set up to investigate the impact of domestic intelligence activities on criminal trials in the United States.

11. The foreign policy of the United States was characterized by support for a range of reactionary forces such as those that waged murderous and devastating war against the peoples of Angola, Mozambique, South Africa and occupied Palestine and was a reflection of the country's domestic policy since the arrival of the colonial pirate Christopher Colombus.

12. His organization was concerned not only about the indescribable suffering inflicted on the populations of those four countries but also about the acts of genocide committed by the Guatemalan régime and its "death squads" and the United States and Zionist support for that and other brutal régimes. As part of a deliberate strategy of ethnocide, the Guatemalan Government was endeavouring to destroy the culture and means of subsistence of the indigenous people by razing hundreds of their villages and driving thousands of them from their lands. The indigenous people of Guatemala had suffered violations of their social, economic and cultural rights but, above all, of their right to life. They were not, as implied by a special rapporteur, a violent society, but a majority terrorized by a violent minority, comprising the army and the very rich persons of the country. His organization agreed with the conclusions of the Working Group on Enforced or Involuntary Disappearances which, after its visit to Guatemala in 1987, had expressed great concern at the extent of the enforced disappearances affecting indigenous people; out of the 42,000 persons who had disappeared in Guatemala, 35,000 were members of indigenous communities. Whatever the Guatemalan Government might say, it was a well-known fact that the military exercised complete control over the civilian population and that Indians were forcibly recruited into the civilian self-defence patrols - a further humiliation for them - so as to allow the military to continue occupying the country like conquerors.

13. The number of victims of the war waged by the Government of El Salvador against the people, with the support of the United States, had reached about 100,000, including 20,000 indigenous people who had survived the massacre of 1931-1932. The United States also supported the Nicaraguan contras, whose activities had produced at least 50,000 victims, thousands of cripples and vast numbers of missing persons, as well as the Pinochet régime in Chile which had been responsible for thousands of murders and disappearances and whose principal victims had been the indigenous Mapuche Indians. The latest atrocity committed by the United States in Central America had been the invasion of Panama which, according to informed sources, had produced at least 3,000 dead and 204 disappearances, while a substantial number of individuals had been detained illegally. All those crimes against humanity had taken place during the nine years of the Reagan and Bush Administrations which must be held accountable. Indigenous peoples and their cultures were also being seriously threatened in Ecuador, Brazil, Argentina and, in general, throughout much of Central and South America.

14. His organization also wished to bring to the attention of the Commission the case of Joe Daugherty, a member of the Irish Republican Army (IRA), who had been held for eight years in a United States prison on account of an application for his extradition to the United Kingdom even though 120 members of Congress had expressed support for granting him political asylum. The case of Filiberto Ojeda Rios and 15 other freedom-fighters of the Puerto Rican independence movement also merited the attention of the Commission.

15. The situation was no better for hundreds of indigenous Saharans who had been fighting against the Moroccan occupation since 1975, as had been recognized by the Working Group on Disappearances (E/CN.4/1990/13) which had expressed concern at the large number of disappearances among those people.

16. The Commission's attention should also be drawn to the case of the Kanak people of New Caledonia whose leaders had been the victims of severe repression, including summary executions, by the Government of France.

17. The high death rate of aboriginal people in the gaols of Australia and the many indigenous political prisoners detained in Indonesian prisons and detention camps in West Papua were of no less concern.

18. His organization urged the Commission to adopt a resolution calling for the unconditional release of Leonard Peltier; to examine the question of extradition treaties under international law; to take urgent action in response to the critical threat to the survival of the indigenous peoples of the Americas, particularly in Guatemala; and to respond to the critical problem of political prisoners and indigenous detainees throughout world.

19. Mr. RAIANI (International Organization for the Elimination of All Forms of Racial Discrimination) said he was astonished at the contradictory replies given by different representatives of the Chinese authorities concerning the Tibetan, Tseten Norgye, whose case had been mentioned in the report of the Special Rapporteur on questions relevant to torture (E/CN.4/1990/17, para. 44). The Special Rapporteur, when introducing his report, had mentioned that the Chinese Government, in a letter dated 17 January 1990, had stated that no detainee of that name could be found among those imprisoned following the demonstrations of March 1989, a statement repeated by the representative of China on the Commission. However, in a letter dated 18 January 1990 addressed to a United States Senator, the Ambassador of China in Washington confirmed that Tseten Norgye had been detained in 1989 for investigation as a major suspect, that he had been formally charged on 10 November 1989 and that his trial was pending. One might well wonder whom one should believe.

20. The fundamental international human rights instruments embodied the principles that prohibited arbitrary arrest or detention and protected freedom of opinion and expression as well as the right of peaceful association. The Chinese authorities had committed flagrant violations of those international rules by arresting and imprisoning Tibetans in the peaceful exercise of their right of expression. More than 200 persons meeting to celebrate the award of the Nobel Peace Prize to the Dalai Lama had been detained and interrogated. According to an official Chinese source, following the proclamation of martial law in Tibet on 7 March 1989, more than 400 demonstrators had been arrested, including 20 nuns who had been sentenced without trial to three years of "labour re-education". In the autumn of 1989, 5 other nuns had been given

the same sentence for calling for independence and, according to a reliable source, 12 other Tibetans had been arrested and sentenced to an average of 15 years' imprisonment for "staging a campaign for Tibetan independence".

21. Many reliable sources had attested to the use of torture as a means of repressing the people of Tibet in violation of the international instruments prohibiting the use of torture or other cruel, inhuman or degrading treatment or punishment. Torture, even of Buddhist nuns, had been very cruel. The ratification by China, in October 1988, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had not prevented the Chinese authorities from continuing to torture Tibetan detainees or from introducing new forms of torture. In fact, new, even crueller, techniques, were being used to extort information.

22. The systematic practice of arbitrary arrest of Tibetans guilty only of having exercised their right to freedom of expression, aggravated by the practice of torture, reflected a total lack of respect by China for its obligations and also indifference to the inherent dignity of the human person. Consequently, his Organization urged the Commission to adopt a decision expressing its deep concern over human rights violations in Tibet and appealing to the People's Republic of China to stop all arbitrary arrests and detentions, to ensure all legal guarantees for those detained and to abide by its obligations under the international human rights instruments. In addition, the Commission might wish to give special consideration to the human rights situation in Tibet.

23. Mr. GIBSON (Commission of the Churches on International Affairs) expressed concern at the cases of arbitrary arrest and unduly long detention, frequently accompanied by torture, and at the cases of enforced disappearances, in particular of members of churches or staff of religious organizations associated with the World Council of Churches. He expressed his organization's appreciation of the work done by the Working Group on Enforced or Involuntary Disappearances, by the Special Rapporteur on summary or arbitrary executions and by the Special Rapporteur on questions relevant to torture. Their mandates should be extended for three years and increased resources made available to them.

24. Governments in several countries continued to resort to administrative or preventive detention in order to silence opponents, particularly in Malaysia, Singapore and in South Korea, where the authorities paid scant regard to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted a year previously by the United Nations General Assembly.

25. In June 1989, the Malaysian Parliament had adopted amendments to the Internal Security Act, as a result of which the administration enjoyed absolute discretionary powers. Detention Orders were no longer subject to any form of judicial review, including challenge under the constitutionally guaranteed right of habeas corpus. He welcomed the release, in April 1989, of 119 detainees and the lifting of restrictions on detainees who had been freed earlier but nevertheless, recalled that, according to estimates, some 68 persons were still in detention in Malaysia under the Internal Security Act. Among them were members of the Communist Party detained since the 1960s or 1970s despite the fact that the Communist Party had, in December 1989, formally accepted peace terms to end the insurrection.

26. Notwithstanding provisions of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Government of Singapore had used the Internal Security Act to imprison or deprive of their constitutional rights those who opposed its policy by non-violent means. Moreover, it had amended the Act so that no court could question the Government on any decision taken under the Act. The Government had also amended the Constitution so that appeals to the Privy Council were no longer possible.

27. His organization welcomed recent initiatives by the Government of the Republic of Korea to repeal a number of laws, such as the Public Security Law, which had been used to violate human rights. In November 1989, a human rights fact-finding mission had concluded that there had been a substantial improvement in the situation over the two previous years. The South Korean Government was also to be commended on its declared intention to ratify several human rights instruments. He was however concerned by the Preventive Surveillance Law and the continued existence of the National Security Law, which permitted the detention of those who expressed non-violent opposition to Government policy. Thus, during the first three quarters of 1989, 1,315 politically motivated arrests had been carried out.

28. In Latin America, his organization was particularly concerned about the situation in Peru, which was in a deep economic and social crisis further complicated by the consequences of the increased production of coca leaves. While it was true that the "Shining Path" frequently violated human rights, the serious violations committed by the Peruvian security forces as part of the counter-insurgency programme and the incapacity or unwillingness of the Government to punish and prevent such violations must also be given close attention.

29. Peru ranked highest in new cases of enforced disappearances, and detainees were very often tortured. According to the Working Group on Enforced or Involuntary Disappearances, such disappearances were often perpetrated by members of the security, military and police forces. According to a number of witnesses, military patrols routinely abducted people and took them to military installations where they were subjected to the cruellest forms of torture, frequently resulting in death.

30. The World Council of Churches wished to call the attention of the Commission to the human rights emergency in Peru. While it was aware of the complexity of the situation and of the many challenges facing the Government, it was none the less convinced that violence would continue to increase unless steps were taken to transform the profoundly unjust social structures which were its root cause. It stressed that the visits to Peru of the Working Group and the Special Rapporteurs on questions relevant to torture and summary executions had made a substantial contribution to the strengthening of democracy in that country. In conclusion, he noted with alarm that the President of Peru, after having supported the action of human rights organizations, had accused them publicly in 1989 of being accomplices in subversion.

31. Mrs. SAYEGH (International Association of Democratic Lawyers), referring to the case of 6 Irishmen who had been imprisoned in the United Kingdom for 15 years after being convicted of murdering 21 people by blowing up 2 public houses in Birmingham, said that the 6 men had never been members of

the IRA and powerful evidence had become available attesting to their innocence, but they were still in prison. That injustice was part of a pattern of unfair and discriminatory treatment of Irish suspects and was based on a prejudice which had led all representatives of the State involved deliberately to manipulate the criminal justice system.

32. In addition, the six Birmingham defendants had been deliberately deprived of sleep and food during their detention. They had been questioned continuously by police for 72 hours without any lawyer present; they had been threatened, terrorized and beaten by the police until they signed confessions. The courts had, however, discounted all evidence of such ill-treatment.

33. After their period of police detention, the six men had been imprisoned and once against subjected to ill-treatment. Their right to a fair trial had been undermined by the British Court of Appeal, which had originally been established to undo miscarriages of justice.

34. Such a consistent pattern of discrimination against Irish suspects violated the provisions of the Universal Declaration of Human Rights and those of the International Covenant on Civil and Political Rights. The six Birmingham defendants had had no effective recourse available at the national level to uphold the rights guaranteed to them under international law; they had never had a public hearing by an independent and impartial tribunal and had never been presumed innocent as they should have been; witnesses for the prosecution had not been examined under the same conditions as witnesses for the defence and, in general, the defendants had not been treated with respect for the inherent dignity of the human person.

35. She therefore asked the Commission on Human Rights to consider the issue of such cases in the United Kingdom which showed a repeated pattern of violations of internationally accepted norms of human rights.

36. Mr. VALLADARES (United States of America) speaking in exercise of the right of reply, said that the situation in Iran and Iraq was a reason for world-wide concern and that many groups, particularly NGOs, had reported thousands of cases of torture in those two countries.

37. Referring to the statements by the representative of Cuba, who had rejected allegations that that country had experienced a new and unprecedented wave of repression, he conceded that it was difficult in practice to say at exactly what moment during the previous 30 years cases of detention, torture and violations of human rights, in general, had been most numerous. That having been said, it was known that a wave of repression had recently struck communist students and university teachers trained in the Soviet Union. In addition, many NGOs, including Amnesty International, as well as the report of the Commission on Cuba had found that many witnesses had been arrested and detained as they left the hotel in which they had made their statements to the members of the mission which had visited the country, notwithstanding the assurance by the Cuban Government that nobody would be the victim of reprisals.

38. However, like the Eastern countries, Cuba was aspiring to democracy and free elections and it was not unlikely, in the current climate of political upsets, that a future Cuban delegation would be made up of reformers.

39. On the issue of whether he himself spoke for the Government of the United States, the Mexican delegation was aware of the diplomatic procedures which enabled his status to be confirmed.

40. Mrs. dos SANTOS PAIS (Portugal), speaking in exercise of the right of reply, said that once again the Indonesian delegation had taken the floor only in order to deny any allegations coming from different sources, concerning violations of human rights in East Timor.

41. The Observer for Indonesia, speaking of the policy of openness supposedly practised in the territory of East Timor, had said that access by telephone to the territory was possible. Quite apart from the fact that it was difficult to make a telephone connection with the territory and that conversations were frequently interrupted, it could hardly be maintained that the openness of a territory was to be measured by the possibilities of reaching it by telephone. If information provided by independent sources on the human rights situation were incomplete, inaccurate and outdated, she wondered why the human rights organizations were not given the opportunity to visit East Timor as the Sub-Commission had recommended in its resolution 1989/7? If there was a real will to co-operate with the Commission, the Indonesian Government should invite the Special Rapporteur on questions relevant to torture and the Working Group on Enforced or Involuntary Disappearances to visit the territory.

42. Mr. LEE (Observer for the Republic of Korea), speaking in exercise of the right of reply to the statement made to the Commission on 16 February by the Observer for the Democratic People's Republic of Korea, said that those familiar with the hostility and tension that had prevailed for more than 40 years between the two parts of Korea would have no difficulty in understanding the steps taken by his Government against the unauthorized visits to the North by certain individuals.

43. The female student activist and the priest in question had been brought to trial on account of their secret illegal visits to North Korea the previous year. The accused had been given fair treatment and a fair trial, and the allegations of torture were not true. The priest had been sentenced to seven years' imprisonment by the appelate court and the case was currently pending before the Supreme Court. As for the female student, whose trip had been organized secretly at the instigation of a group of radical students in North Korea, it should be emphasized that travel in those conditions could only undermine the conduct of the intra-Korean dialogue.

44. Following the adoption, in June 1989, of basic guiding directives for South-North exchanges and co-operation, his Government had approved 19 of the 39 applications for South-North exchanges, but the North Korean authorities had not agreed to that humanitarian measure, which would certainly have contributed to the establishment of a climate of mutual confidence and reconciliation.

45. Concerning the problem of arbitrary arrest and detention in which North Korea seemed to be interested, his delegation inquired why there had been no reply when Amnesty International, in its 1989 report, had mentioned information to the effect that 100,000 persons were detained in labour camps in North Korea, mainly for political reasons.

46. In conclusion, he called upon North Korea to authorize international human rights organizations and other competent observers to monitor the human rights situation there.

47. Mr. SOKHONA (Observer for Mauritania), speaking in exercise of the right of reply to the Observer for the Netherlands who had mentioned his country at the previous meeting, recalled that his delegation had already explained certain relevant provisions of Mauritanian criminal law. He stressed that those provisions were in force and that the appropriate control machinery was monitoring their application. The Netherlands' delegation could refer to the information which had been provided to the Special Rapporteur in that connection by the Mauritanian Government in its reply dated 17 January 1990.

48. Furthermore, he was surprised that the Netherlands could lend itself to propaganda which sought to divide the Mauritanian people into two categories of black and white. A life in common over more than a thousand years testified to the fact that such allegations in no way reflected reality.

49. The Mauritanian Government had, however, taken the initiative, at the 18 January 1990 meeting of the Political Commission of the Council of Europe, in Paris, to invite a group of members of the Netherlands Parliament, belonging to various political parties, to visit Mauritania.

50. Mr. OMAR (Observer for the Sudan), speaking in exercise of the right of reply, said that the International Commission of Health Professionals for Health and Human Rights, the International Human Rights Law Group and the Arab Lawyers Union had all mentioned his country in their statements. The allegations made by those three NGOs against his Government suffered from basic inconsistencies and, moreover, appeared to have been prompted by a desire to make headlines rather than to ascertain the situation in the Sudan in an objective manner.

51. The International Commission of Health Professionals for Health and Human Rights had asserted that world public opinion had been shocked by the imprisonment and condemnation to death of health professionals by the Sudanese authorities; however it had been completely oblivious to the moral indignation of Sudanese public opinion at the illegal work stoppage by those doctors which had led to the death of a pregnant woman and her baby. Furthermore, the work stoppage, which had undoubtedly been politically motivated, had unjustly discredited the entire medical profession.

52. He categorically denied that "many" of the 300 persons whom the International Human Rights Law Group alleged to have been arrested on the occasion of the change of Government on 30 June 1989 continued to be detained without charge. In addition, his delegation took exception to the manner in which that NGO had made reference to article 9 of the International Covenant on Civil and Political Rights, since his Government was satisfied that it had rigorously complied with the requirement "except on such grounds and in accordance with such procedure as are established by law". It also took exception to the way in which the International Human Rights Law Group had interpreted the expression "state of emergency" in connection with the Sudan.

53. The Arab Lawyers Union had also referred to the situation in the Sudan and its Secretary-General had distributed two documents to members of the Commission: an undated document, in English, examined methods of torture

allegedly practised in the Sudan while the other, a document in Arabic dated 12 December 1989, was alleged to be a photocopy of a medical report addressed by the medical unit of the Khartoum North Central Prison to the Warden of that Prison.

54. The former document, which was mediocre in both form and content, reflected a degree of irresponsibility on the part of its author. The second document was a wanton fabrication forming part of a smear campaign against the Government of the Sudan. Such a manoeuvre by the Arab Lawyers Union was designed to promote the political objectives of its current Secretary-General, a former Minister for Foreign Affairs of the Sudan, who had acquired the reputation in other Arab countries of being a source of disinformation.

55. Mr. ALFONSO MARTINEZ (Cuba), speaking in exercise of the right of reply, said that the representative of the United States had not answered any of the questions raised by his delegation. He wondered whether the representative of the United States, when referring to torture, was speaking about the persons tortured in the prisons of Batista - one of whose collaborators he had been - or about the individuals tortured in the United States or in other countries by torturers trained by the United States.

56. It was untrue, as had been confirmed in the report of the mission which had visited the country in 1988, that a new wave of repression had broken out in Cuba. His country, like all others, wished to be free and to practise democracy but it did not want a régime, regarded by some as democratic, such as that under which the Cuban people had been obliged to suffer before 1958. Cuba would follow its own chosen road, in conformity with its traditions, and would know how to defend regardless of cost everything that it had gained during the last 30 years.

57. Mr. HUN (Observer for the Democratic People's Republic of Korea), speaking in exercise of the right of reply, said that if, in its earlier statement, his delegation had mentioned only the case of two individuals imprisoned in South Korea for having visited North Korea, that did not mean that there had not been many other violations of human rights in the South. The imprisonment of those two individuals bore testimony to the intention of the South Korean Government to stifle democratic forces and to slow the process of national reunification.

58. Rather than explain that matter, the Observer for the Republic of Korea had preferred to distract the Commission's attention by making groundless allegations. The Democratic People's Republic of Korea had invited three large student and youth organizations to the World Festival of Student Youth held at Pyongyang in June 1989 but the authorities in the South had opposed their participation.

59. It should be pointed out that, under the National Security Act, contacts between the North and the South were regarded as offences in South Korea. If the authorities of the South wanted the country to be reunified, they must permit individuals to have contacts with the North. His Government had, on 1 January 1990, informed the South Korean authorities that, if they knocked down the concrete wall that separated the two Koreas, it would do away with the barbed wire in the northern part and authorize the free travel of people between the North and the South. It was to be hoped that negotiations would soon start on that point.

60. Mr. WIRAJUDA (Observer for Indonesia), speaking in exercise of the right of reply, said that the arguments used by the Portuguese delegation had repeatedly been put to the Commission and his delegation had already answered them quite clearly and in detail in its previous intervention.

61. Mr. URRUELA PRADO (Observer for Guatemala), speaking in exercise of the right of reply, said that one non-governmental organization seemed to be unaware that there were in Guatemala, on the one hand, a legitimately elected civilian Government and, on the other, a number of extremist groups, of left and right, which used violence as a means of political struggle. It was those groups that were responsible for the violence described objectively by Mr. Gros Espiell, the expert, in his report and that were trying to interrupt the process of democratic opening. He asked that the assistance provided to Guatemala should be maintained in order to strengthen the democratic process and to contribute to the development of a tolerant society in his country.

62. Mr. LEE (Observer for the Republic of Korea), speaking in exercise of the right of reply for the second time, reminded the Commission that he had already clarified the issue of the dialogue between the two Koreas. The crux of the matter was why the delegation of the Democratic People's Republic of Korea remained silent when asked why humanitarian international organizations could not visit the territory in order to monitor the human rights situation at first hand.

63. Mr. HUN (Observer for the Democratic People's Republic of Korea), speaking in exercise of the right of reply for the second time, said that it was not for the Republic of Korea to judge the human rights situation in the Democratic People's Republic of Korea. The statements by the Observer for the Republic of Korea were designed only to distort the truth and to divert the attention of the Commission from what was happening in his own territory. If there had been no violations of human rights in South Korea, the European countries would not have urged its Head of Government during his visit to Europe, to do his utmost to ensure respect for those rights.

64. Mrs. GONZALEZ MARTINEZ (Mexico), speaking in exercise of the right of reply, said that her delegation categorically rejected the idea that its Government could or would tolerate acts of torture. She thanked the representative of the United States for stating that his Government did not consider that Mr. Camarena, who had died in 1985, had been tortured with the agreement of the authorities of the Government then in power in Mexico.

65. The CHAIRMAN said that the Commission on Human Rights had completed consideration of item 10 of its agenda.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) Question of human rights in Cyprus (agenda item 12) (E/CN.4/1990/5, 21, 22 and Add.1, 25-28, 51, 52, 55, 57, 60-63, 69 and 70; E/CN.4/1990/NGO/1, 3, 9, 10, 15, 19, 23-27, 31, 32, 34, 35, 40, 53 and 54; A/44/526, 573, 620, 622, 635, 669 and 671)

66. Mr. MARTENSEN (Under-Secretary-General for Human Rights) said that the topic considered by the Commission under agenda item 12 was an essential part

of its work on the promotion of human rights and ways of ensuring the full and universal application of those rights. Over the past 10 years, in the context of action to safeguard the rights enshrined in the International Bill of Human Rights, the Commission had created some new, non-conventional procedures which were sufficiently flexible to be adapted to new situations. They had a humanitarian dimension and effectively complemented the work of the various treaty bodies. The Commission had, in particular, instructed a number of rapporteurs or special representatives to report on the human rights situation in one country or another or on thematic issues.

67. At its forty-sixth session, the Commission would accordingly consider the report (E/CN.4/1990/5) by Mr. Fernando Volio Jímenez, the Special Rapporteur on Chile, who, as in previous years, had continued to study the situation of human rights in that country on the basis of information obtained from different sources as he had not been able to visit the country. It would also consider the reports by Mr. Ermacora, Special Rapporteur on the situation of human rights in Afghanistan (E/CN.4/1990/25) and by Mr. Pastor Ridruejo, Special Representative on the situation of human rights in El Salvador (E/CN.4/1990/26). Mr. Ermacora and Mr. Pastor Ridruejo had both had the opportunity of visiting the countries concerned and of holding long talks with the relevant authorities and non-governmental organizations.

68. As for the Islamic Republic of Iran, it would be recalled that, during the most recent session of the General Assembly, the Iranian Government had, for the first time, extended an invitation to Mr. Galindo Pohl, the Commission's Special Representative on the situation of human rights in Iran, to visit the country. The report by Mr. Galindo Pohl (E/CN.4/1990/24) contained all the additional information gathered during that visit, which had taken place from 20 to 29 January 1990. Lastly, the report by Mr. Voyame, Special Rapporteur of the Commission on the situation of human rights in Romania (E/CN.4/1990/28) had an addendum reflecting the latest developments in the field of human rights in that country stemming from the events that had taken place in December 1989, subsequent to which Mr. Voyame had been invited by the new Romanian authorities to visit the country.

69. The Commission also had before it a general analysis of the phenomenon of summary or arbitrary executions (E/CN.4/1990/22) prepared by Mr. Wako, Special Rapporteur on that topic, and also a report on his recent visit to Colombia (E/CN.4/1990/22/Add.1).

70. A number of other documents had been submitted to the Commission under agenda item 12, namely, a report by the Secretary-General on the situation of human rights in Albania, prepared in accordance with Commission resolution 1989/69 (E/CN.4/1990/27); a note by the Secretary-General on the situation in Myanmar, submitted in accordance with Commission decision 1989/112 (E/CN.4/1990/68); and a note by the Secretary-General on the situation in China, prepared in accordance with resolution 1989/5 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1990/52).

71. The question of human rights in Cyprus, which had been under consideration by the Commission since 1976, formed the subject of a report

by the Secretary-General contained in document E/CN.4/1990/21, which dealt in particular with the practical implementation of the resolutions that had already been adopted on the subject.

72. Mr. PASTOR RIDRUEJO (Special Representative of the Commission on the situation of human rights in El Salvador), introducing his report on the situation of human rights in El Salvador in 1989 (E/CN.4/1990/26) said that the fact that the military personnel implicated in the killing of Father Ignacio Ellacuría and other persons had been brought before the courts was proof that Mr. Cristiani, the President of the Republic of El Salvador, was sincerely resolved to defend democracy and to ensure respect for human rights in El Salvador. Yet, in spite of the commendable efforts of the President, the human rights situation in the country had deteriorated substantially since the end of 1989. That was due, in particular, to the intensification of the fighting between the guerrillas and the Salvadorian army; it was also due however, in the view of the Special Rapporteur, to the fact that the constitutional authorities of El Salvador had not been able to exercise sufficient control over the actions of the various State agencies. A number of summary executions attributable to certain of those agencies or to the "death squads" which were protected by them had increased still further and it was essential therefore that the trials under way should lead to fair and exemplary sentences. That would be real proof that the Salvadorian Government was truly intent on reforming justice and on ensuring respect for the principles which should prevail in a State subject to the rule of law.

73. The FMLN was also guilty of indiscriminate attacks on civilians in the towns and of summary executions of members of the armed forces, high officials or members of rightist parties. To those must be added cases of disappearance or kidnapping for which both the "death squads" and the guerrilla organizations were responsible. Moreover, according to information received, political prisoners were sometimes subjected to torture or other cruel, inhuman or degrading treatment, although it could not be said that torture was a general practice, still less an institutionalized one, in El Salvador. In addition, the administration of justice still left something to be desired, since most acts of violation of human rights went unpunished. He very much hoped that the new measures designed to reform the criminal system would produce prompt results.

74. Concerning respect for the international humanitarian law applicable in the case of armed conflict, there was no doubt that the operations launched by the army, particularly after the FMLN general offensive, had produced many dead and wounded among the civilian population as well as among medical and health personnel during the dismantling of FMLN health posts. For its part, FMLN had caused the death of many civilians, through the explosion of mines which it had planted, and it had also continued its sabotage operations against the economic infrastructure of the country.

75. Some few humanitarian measures had been adopted, such as the repatriation of peasants, the sending abroad of maimed guerrillas, the freeing of a few prisoners captured by FMLN and the establishment of short-term truces.

76. According to the Special Rapporteur, violations of human rights would continue as long as the war in El Salvador lasted and could not but increase as the fighting intensified. Such violations would cease only with the end of the conflict and the establishment of the peace so ardently desired by the

vast majority of the Salvadorian people. It was for that reason that he had again urged the Government authorities of El Salvador and the leaders of FMLN to resume the dialogue which was currently interrupted and to show generosity, imagination and political realism with a view to reaching a negotiated peace. However, the dialogue itself required the establishment of a climate of confidence; increased violence both within the armed conflict and outside the actual fighting would not contribute to such a climate.

77. He wished to thank the Salvadorian Government and the FMLN for their collaboration and the Centre for Human Rights for the quality of the assistance it had provided him.

78. The CHAIRMAN thanked Mr. Pastor Ridruejo, on behalf of the Commission, for the remarkable work he had done in pursuance of his mandate.

79. Mr. TABIBI (World Muslim Congress) said that, while he welcomed the fact that some East European countries had moved towards political, economic and social reforms, it was deplorable that, in both Western and Eastern Europe, minorities, particularly Muslim minorities, were still struggling for their legitimate rights. In the Middle East and elsewhere in Asia, Muslims were still suffering as minorities: that was the case in Palestine, Lebanon, Kashmir, Azerbaijan, in the Soviet Republics of Central Asia, in Eritrea, in Burma and in other areas of the Far East.

80. Afghanistan, a small non-aligned Muslim country, had been the victim of aggression by a super-Power which had caused 1.5 million deaths, maimed half a million people and driven 5 million to become refugees in Pakistan and Iran. Although the aggression had taken place during the Brezhnev era, peace still seemed very far away as was clear from the reports of Mr. Ermacora, the Special Rapporteur, and Amnesty International. The Parliament of the Soviet Union had recently recognized that the invasion had been contrary to international law and morality, but the current Soviet régime continued to send weapons of mass destruction to Afghanistan and to support the Kabul régime when what the country needed was help and reconstruction.

81. The Afghan people were grateful for the assistance of Pakistan, Iran and other friendly countries. They would also like to co-operate with the Soviet Union provided the latter recognized the territorial integrity of Afghanistan, the right of Afghans to self-determination and the principle of non-intervention. The new Parliament of the Soviet Union should also take practical steps to reconstruct Afghanistan. He also appealed to the industrialized countries. He asked the United Nations Co-ordinator, Prince Sadruddin Aga Khan, and his Office, UNHCR and the other United Nations agencies not to delay their assistance to a people which had been fighting for human rights and freedom for the last 11 years.

82. Mr. SALAZAR (Andean Commission of Jurists), speaking on the topic of summary or arbitrary executions, referred first to the situation in Colombia which was set forth in the report by Mr. Amos Wako, Special Rapporteur on such executions (E/CN.4/1990/22 and Add.1). The judiciary had been particularly hit by that phenomenon, 27 judges having been murdered in 1989. Some of those eliminated in that way had been investigating crimes connected with the drug

traffic or alleged violations of human rights by the security forces. In Colombia, the State did not ensure the safety of judges and, generally speaking, seemed to have lost the capacity to act in respect of social conflicts.

83. As for the internal armed conflicts, he noted that, according to the statistics available, 410 guerrillas had been killed between January and 15 November 1989, while 22 had been wounded. The imbalance between those figures which was difficult to explain from the military point of view, gave the impression that an extermination strategy was being applied by the military in violation of the standards of international humanitarian law established more than 40 years previously by the Geneva Conventions. The lack of action by the State and the impunity of the culprits were of the greatest concern. It should also be remembered that the possibility of recourse to habeas corpus was severely restricted and that the security forces could detain people incommunicado for seven working days. A consultative commission against death squads, created in 1989, had not yet disclosed the plan it had been supposed to prepare.

84. In Peru, 3,198 persons had lost their lives because of political violence, according to figures provided by the Ad hoc Commission of Inquiry and Research into Terrorism and Other Manifestations of Violence, which had been established by the Peruvian Senate. That number reportedly included 348 members of the security forces, 1,450 civilians, 1,251 presumed subversives and 149 presumed drug traffickers. Terror was mainly the work of the "Shining Path" which had, in particular, in the context of a boycott of the municipal elections, assassinated 49 mayors and an unknown number of candidates. The other armed group operating in the country, the Tupac Amaru Revolutionary Movement (MRTA) had a different strategy and tactics but was increasingly resorting to similar methods. For their part, the security forces were committing serious violations during their operations; violations that only weakened the State which should buttress its authority by demonstrating its respect for human rights and international humanitarian law. He considered that a visit to Peru by the Special Rapporteur on summary and arbirary executions would be useful. He also referred to the activities of the "Rodrigo Franco" Commando, a paramilitary force; according to members of opposition parties who had sat on a commission of inquiry appointed by the Chamber of Deputies, that group had close connections with the police establishment and with leaders of the ruling party.

85. In Venezuela, the action taken by the security forces during the disturbances that had occurred in Caracas and other towns a year previously had produced victims whose number had not been officially established but was certainly high. He also pointed out that, according to a deputy of the Venezuelan Congress, the action of the security forces had caused the death of 713 persons in the western region between 1983 and 1988.

86. It was therefore essential to ask the Governments concerned once again to put an end to the impunity of the culprits. The presence of armed opposition groups in no way justified the abuse or tolerance of violence by the State. The international community should pay greater heed to phenomena of that kind, which were different from those which had drawn public attention to Latin America in recent years.

87. Mr. COX (Amnesty International) recalled that, in accordance with the Principles on the Effective Prevention and Investigation of Extra-legal, Summary and Arbitrary Executions, which had been endorsed by the General Assembly in December 1989 following their adoption by the Economic and Social Council in May 1989, all Governments were required to take the necessary steps to put an end to situations in which political killings occurred. Those principles also confirmed the prohibition of secret detention.

88. His organization had been informed that a large number of prisoners had been executed in secret detention centres at N'Djamena in Chad during the previous four years. Some had been captured when fighting government forces, others were opponents, or suspected opponents, of the Government. Prisoners had been starved to death, or had been poisoned or had died as the result of torture or beatings. A number of victims had been detained in the Presidency itself shortly before they were killed.

89. In Colombia, clear evidence existed that the armed forces had been involved in extrajudicial executions but the culprits went largely unpunished. Officials investigating such abuses had been increasingly threatened or even themselves killed. In January 1989, 12 members of a judicial commission of inquiry had been killed in La Rochela, in the department of Santander. Witnesses to those killings had themselves been killed in March 1989 because they had co-operated with the judicial authorities conducting an investigation. In July 1989 Dr. María Elena Diaz Perez, who had replaced another judge investigating the March 1988 massacre of 21 plantation workers, had been assassinated at Medellín.

90. In Sri Lanka, the number of extrajudicial executions attributable to government forces and the "death squads" associated with them had increased dramatically after the reimposition of the state of emergency in June 1989. An emergency regulation permitting the security forces to dispose of bodies without an inquest, which had been withdrawn only on 15 Febrary 1990, had undoubtedly encouraged extrajudicial executions. Among those who had been killed or threatened with death were lawyers, witnesses to alleged violations by the security forces and complainants who alleged that they had been tortured. A few incidents had been investigated, but the findings had not been made public.

91. In Peru, the number of extrajudicial executions had risen steadily over the two previous years. Since 1988, such violations had been reported even in areas outside the emergency zones. The great majority of the victims were peasant farmers from remote mountain areas. On 9 February 1989, 29 members of the Federación Campesina de Ucayali had been killed by the police as they participated in a demonstration in Pucallpa. On 17 May 1989, soldiers had reportedly detained at least 20 villagers from Calabaza, in the district of Mariposa; 11 of them had been found dead the next day including 3 who had been between 14 and 17 years of age. The Government had consistently failed to pursue the investigation of such gross abuses.

92. Concerning Iraq, reports continued to be received regarding the arrest and disappearance of a large number of persons who had returned to the country following the cease-fire between Iran and Iraq and several amnesty measures announced by the Government of Iraq for opponents wanted for or convicted of political offences. In particular, 353 Kurds, including 52 minors between 11

and 17 years of age, had been arrested in August 1988 at Amadiyya, in the province of Duhok, and were then reported to have disappeared, notwithstanding an amnesty for all Kurds announced on 6 September 1988. The fate of 33 Assyrian Christians who had returned from Turkey and Iran in late 1988 and the beginning of 1989 was equally a matter of concern as they were reported in March 1989 to have disappeared.

93. Information received by Amnesty International indicated that at least 1,000 civilians and 16 soldiers had been killed in Beijing, China, on 3 and 4 June 1989. Despite well-attested evidence, the authorities had understated the number of deaths and had not explained why a decision to open fire on unarmed civilians had been taken. A number of people had been sentenced without having been given an opportunity for defence and without the presence of international observers; some had been sentenced to death. In June 1989, the Supreme People's Court had called on local courts to "try quickly and punish severely" those involved in the "counter-revolutionary rebellion". A few dozen executions had been publicly reported but, according to some sources, there had been several hundred secret executions in Beijing alone between June and August 1989.

94. In the cases described and in others, Governments had failed in their duty of prohibiting secret custody, investigating abuses promptly and impartially, and prosecuting the culprits. It was thus of the utmost importance that the Commission should take action to uphold international standards and use the means at its disposal to end such abuses.

95. Mr. da SILVA (Sri Lanka), speaking in exercise of the right of reply, said that, despite what the representative of Amnesty International had just said, it was not true that measures had not been adopted in Sri Lanka to put an end to secret detention and extrajudicial executions. Neither was it true that there had been no investigations: such actions had been taken but only on the basis of adequate evidence. The allegations of the representative of Amnesty International regarding executions attributable to the government forces and "death squads associated with them" were not supported by the facts. He invited the representative of Amnesty International, if he had any evidence acceptable to a court, to make it available to him so that he could transmit it to his Government.

The meeting rose at 6 p.m.